

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Amend the Laws Relating to Government Records

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §92-A, sub-§5, as amended by PL 1997, c. 636, §3, is further amended to read:

5. Record. "Record" means all documentary material, regardless of media or characteristics and regardless of when it was created, made or received and/or maintained by an agency in accordance with law or rule or in the transaction of its official business. "Record" does not include extra copies of printed or processed material of which official or record copies have been retained, stocks of publications and processed documents intended for distribution or use or records relating to personal matters that may have been kept in an office for convenience.

"Record" includes records of historic and archival value to the State, regardless of the date of their generation, including all documents determined to have such value to the State by statute and, when appropriate, by the State Archivist.

Sec. 2. 5 MRSA §95, sub-§12, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

12. Copies. To furnish copies of archival material upon the request of any person, on payment in advance of such fees as may be required. Copies of state records transferred pursuant to law from the office of their origin to the custody of the State Archivist, when certified by the State Archivist, under the seal of that office, have the same legal force and effect as if certified by their original custodian. A facsimile of the signature of the State Archivist imprinted by or at the direction of the State Archivist upon any certificate issued by the State Archivist has the same validity as the written signature of the State Archivist; and

Sec. 3. 5 MRSA §95, sub-§13, as amended by PL 1991, c. 837, Pt. A, §9, is further amended to read:

13. Photoreproduction and restoration. To provide centralized photoreproduction and records preservation services for government agencies to the extent the State Archivist determines advisable in the administration of the state program and facilities. Such services must be furnished to such agencies at cost.

Fees collected under this subsection must be deposited in the General Fund; and

Sec. 4. 5 MRSA §95, sub-§14 is enacted to read:

14. Records explanation available. To prepare a detailed explanation of what constitutes a "record" pursuant to section 92A, subsection 5 and "records belonging to the State or to a local government or any agency of the State" pursuant to section 95A, subsection 1. The State Archivist shall include in the

explanation practical examples of such records in plain language. Upon request, the State Archivist shall provide the explanation to interested parties at no cost to the requestor and shall post the explanation on a publicly accessible website.

Sec. 5.5 MRSA §95-A, sub-§1, as amended by PL 1997, c. 636, §7, is further amended to read:

1. Ownership and possession; notice and demand of return.A record created by or belonging to the State, to a local or county government in the State or to any agency of the State remains the property of the State until ownership and possession are formally relinquished in accordance with statute and rules. Whenever the State Archivist has reasonable grounds to believe that records belonging to the State or to a local government or any agency of the State or to which the State or its agencies have a lawful right of possession are in the possession of a person or entity not authorized by the State Archivist, other lawful custodian or by law to possess those records, the State Archivist may issue a written notice and demand to that person or entity for the immediate return of the records. The notice and demand must be sent by certified or registered mail, return receipt requested. The notice and demand must identify the records claimed to belong to the State or local government with reasonable specificity. Upon receipt of the notice and demand, the person or entity in the possession of records claimed to belong to the State or local government may not destroy, alter, transfer, convey or otherwise alienate those records unless authorized in writing by the State Archivist or by an order issued by a court of competent jurisdiction. The notice and demand must specifically state that any transfer, conveyance or other alienation of the records after receipt of the notice and demand constitutes a Class E crime in violation of section 97.

Effective 90 days following adjournment of the 124th
Legislature, Second Regular Session, unless otherwise indicated.